

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olas Carayannis	Team: Squad #10	CCRB Case #: 201408513	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/16/2014 1:00 AM	Location of Incident: § 87(2)(b)	Precinct: 47	18 Mo. SOL 2/16/2016	EO SOL 2/16/2016	
Date/Time CV Reported Mon, 08/18/2014 5:09 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 08/18/2014 5:09 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Nunez	18750	940519	047 PCT
2. DTS Daniel Beddows	7398	926556	047 PCT
3. POM Juan Rodriguez	16076	939343	047 PCT
4. POM Jens Maldonado	14155	940408	047 PCT
5. SGT John Anzelino	00097	917037	047 PCT
6. LT Michael Raso	00000	933235	047 PCT
7. An officer			047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Jesse Turner	00000	937931	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Juan Rodriguez	Abuse: PO Juan Rodriguez stopped § 87(2)(b)	
B.POM Daniel Nunez	Abuse: PO Daniel Nunez stopped § 87(2)(b)	
C.LT Michael Raso	Abuse: Lieutenant Michael Raso damaged § 87(2)(b)'s property.	
D.POM Daniel Nunez	Abuse: PO Daniel Nunez entered § 87(2)(b) in the Bronx.	
E.POM Juan Rodriguez	Abuse: PO Juan Rodriguez entered § 87(2)(b) in the Bronx.	
F.SGT John Anzelino	Abuse: Sgt. John Anzelino entered § 87(2)(b) in the Bronx.	
G.LT Michael Raso	Abuse: Lieutenant Michael Raso entered § 87(2)(b) in the Bronx.	
H.POM Daniel Nunez	Abuse: PO Daniel Nunez frisked § 87(2)(b)	
I.LT Michael Raso	Discourtesy: Lieutenant Michael Raso spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
J.LT Michael Raso	Abuse: Lieutenant Michael Raso threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
K.LT Michael Raso	Abuse: Lieutenant Michael Raso searched § 87(2)(b) [REDACTED] in the Bronx.	[REDACTED]
L.SGT John Anzelino	Abuse: Sgt. John Anzelino searched § 87(2)(b) [REDACTED] in the Bronx.	[REDACTED]
M.POM Juan Rodriguez	Abuse: PO Juan Rodriguez threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
N.POM Daniel Nunez	Abuse: PO Daniel Nunez threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
O. An officer	Abuse: An officer threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
P.POM Daniel Nunez	Discourtesy: PO Daniel Nunez spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
Q.POM Juan Rodriguez	Discourtesy: PO Juan Rodriguez spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
R. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]

### Case Summary

On August 16, 2014, at approximately 1:00 a.m., § 87(2)(b) was standing in front of his house, located at § 87(2)(b) in the Bronx. PO Juan Rodriguez and PO Daniel Nunez, both from the 47<sup>th</sup> Precinct, stopped their vehicle near § 87(2)(b) allegedly grabbed his waistband and ran away from the officers into his house. PO Nunez and PO Rodriguez followed him (**Allegation A and B**). Sgt. John Anzelino, Det. Daniel Beddows, PO Jens Maldonado, and Lieutenant Michael Raso, all from the 47<sup>th</sup> Precinct, responded. Lieutenant Raso broke the door to the house open (**Allegation C**) and Sgt. Anzelino, PO Rodriguez, PO Nunez, and Lieutenant Raso entered (**Allegation D, E, F, and G**). § 87(2)(b) was in the vestibule. He was handcuffed and PO Nunez frisked him (**Allegation H**). § 87(2)(b) is a three family house. § 87(2)(b) who is § 87(2)(b)'s mother, was in their apartment, located on the third floor, when Lieutenant Raso and Sgt. Anzelino entered and searched the apartment (**Allegation I and J**). She asked if they had a warrant, and Lieutenant Raso stated that they did not need a “fucking” warrant (**Allegation K**). § 87(2)(b) asked if she could call her lawyer, and Lieutenant Raso said she could not use the “fucking” phone (**Allegation K continued**). Lieutenant Raso threatened to arrest her, but he did not say for what (**Allegation L**).

§ 87(2)(b) went to the vestibule of the building where she observed § 87(2)(b) handcuffed with three officers surrounding him. PO Nunez, PO Rodriguez, and an unidentified officer were calling § 87(2)(b) a “piece of shit” (**Allegations M, N, and O**) and were threatening to arrest him (**Allegation P, Q, and R**). The officers unhandcuffed § 87(2)(b) and left without issuing a summons or arresting anyone.

§ 87(2)(g), § 87(4-b)

This case was originally assigned to Investigator Cassandra Fendley but was reassigned to the Investigator Nicholas Carayannis on January 6, 2015.

### Mediation, Notice of Claim, and Criminal Histories

This case was not eligible for mediation as property damage was alleged. On § 87(2)(b), § 87(2)(b) filed a Notice of Claim with the City of New York claiming injuries to the head, back, and legs and emotional, physical, and mental distress. Also claimed was wages lost, personal monetary loss, and property damage and she requested \$1,196,500 in redress (Board Review 04 and Board Review 05). § 87(2)(b)

### Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Nunez has been a member of service for nine years and has the following CCRB allegations substantiated against him:
  - In 200610674, the board substantiated a stop and a search of a person against PO Nunez to which he pled guilty and lost two vacation days.

- In 201213751, the Board substantiated a stop and a frisk allegation and recommended Command Discipline A, which the NYPD imposed.
- In addition to the above listed substantiated allegations, PO Nunez has been a subject of 21 other allegations for six complaints. Five of these allegations were for stops, frisks, and searches, which were closed as victim uncooperative, unsubstantiated, or are still open. He has been the subject of one entry allegation.
- PO Rodriguez has been a member of the service for nine years and has no substantiated CCRB allegations against him. PO Rodriguez has been the subject of 29 allegations in 11 complaints. The majority of these allegations were force allegations. Two were allegations of an entry and one was for a stop allegation, all of which were closed as exonerated.
- Det. Beddows has been a member of the service for 14 years and had no substantiated CCRB allegations against him. Det. Beddows has been the subject of 24 allegations in 16 complaints. Four of these allegations involved questions, stops, frisks, or searches of individuals and were closed as unsubstantiated and exonerated.
- PO Maldonado has been a member of the service for nine years and has no substantiated CCRB allegations against him.
- Lieutenant Raso has been a member of the service for 11 years and has the following CCRB allegations substantiated against him:
  - In 200801117 the Board substantiated one allegation of a gun pointed and one allegation of a stop against Lieutenant Raso and the NYPD imposed instructions.
  - In 200902991 the Board substantiated an allegation of a vehicle stop and the NYPD imposed instructions.
  - In 201106779 the Board substantiated an allegation of a vehicle stop, but the SOL had run out on the case and the NYPD imposed no discipline.
  - In addition to the above listed substantiated allegations, Lieutenant Raso has been the subject of 47 allegations in 14 complaints. Five of these were for improper searches individuals, four were for improper stop and frisk allegations, and none of these allegations was for improper entries into a dwelling.
- Sgt. Anzelino has been a member of the service for 18 years and has the following CCRB allegations substantiated against him:
  - In 200408476 the Board substantiated an allegation of a detention, and allegation of a transportation following the detention, and an allegation of discourteous language and the NYPD imposed command discipline.
  - In 201106433 the Board substantiated an allegation of a refusal to provide name and shield and two allegations of a stop and the NYPD imposed command discipline.
  - In addition to the above listed substantiated allegations, Sgt. Anzelino has been the subject of 76 allegations in 22 complaints. Ten of these allegations were for improper stops and frisks, five were for improper searches of an individual, and two were for improper entries into a dwelling.

### **Findings and Recommendations**

#### **Identification of Subject Officers**

§ 87(2)(b) stated that two § 87(2)(b) male officers in plainclothes entered her apartment. Lieutenant Raso stated that he and Sgt. Anzelino entered § 87(2)(b)'s apartment. Sgt. Anzelino denied that he had interacted with § 87(2)(b). Given that Lieutenant Raso corroborated § 87(2)(b)'s statement that two officers entered her apartment and that Lieutenant Raso named Sgt. Anzelino by name as the officer who entered with him, the investigation pled Allegations F, L and W against Sgt. Anzelino.

Lieutenant Raso acknowledged that he entered § 87(2)(b)'s apartment first and that he interacted with her in her apartment, Allegations G, I, J, and K were pled against him.

Given that Lieutenant Raso acknowledged making the decision to open the front door causing it to break, Allegation C was pled against him.

PO Rodriguez and PO Nunez acknowledged stopping § 87(2)(b) inside of § 87(2)(b). PO Nunez acknowledged frisking § 87(2)(b). Thus Allegations A, E, M, Q, and T were pled against PO Rodriguez and Allegations B, D, H, N, P, and S were pled against PO Nunez.

§ 87(2)(b) stated that three officers spoke discourteously to § 87(2)(b) and threatened to arrest him in the vestibule of § 87(2)(b). The only officers who acknowledged entering the building were PO Rodriguez, PO Nunez, Sgt. Anzelino, and Lieutenant Raso. Sgt. Anzelino and Lieutenant Raso were inside of § 87(2)(b)'s apartment at the time that these allegations took place. The investigation was thus, unable to determine the identity of the third officer. Thus Allegations O and R were pled against “an officer.”

### **Investigation Findings and Recommendations**

**Allegation A—Abuse of Authority: PO Juan Rodriguez stopped § 87(2)(b)**

**Allegation B—Abuse of Authority: PO Daniel Nunez stopped § 87(2)(b)**

**Allegation H—Abuse of Authority: PO Daniel Nunez frisked § 87(2)(b)**

PO Nunez and PO Rodriguez both stated that they observed § 87(2)(b) in front of § 87(2)(b). They both recognized § 87(2)(b) from prior drug arrests and from a search warrant that was conducted in his apartment at § 87(2)(b) in the previous year. They did not suspect § 87(2)(b) of committing any crime when they first observed him. PO Nunez rolled down his window and asked § 87(2)(b) “Hey, § 87(2)(b) What’s going on?” § 87(2)(b) put his hand in his pants near the button clasps, turned, and ran inside his house. PO Nunez did not see what he grabbed toward, he did not see any outline or bulge in that area, and he did not have any other reason to suspect § 87(2)(b) of possessing a weapon beyond that he grabbed his pants and ran, which he had not done on previous arrests. PO Rodriguez saw an outline near § 87(2)(b)'s waistband when he grabbed toward his pants, but he could not describe the shape or contours of the outline. He did not have any other reason to suspect that § 87(2)(b) possessed a weapon beyond what was described above.

PO Nunez and PO Rodriguez chased § 87(2)(b) toward the front door of § 87(2)(b) which they entered behind him (see below). PO Nunez stated that § 87(2)(b) entered his apartment, which is on the third floor, then walked back downstairs with his hands up, stating that he did not have anything. PO Nunez handcuffed him. PO Nunez did not see any bulges around § 87(2)(b)'s waistband at that time, and he frisked § 87(2)(b)'s waistband. He did not feel any object and he did not find any contraband.

*People v. DeBour* 40 N.Y.2d 210, 215 (Board Review 15) Officers are permitted to stop a person when reasonable suspicion of criminality exists and may conduct a frisk when there is reasonable suspicion to believe that the person is armed.

*People v. Holmes*, 81 N.Y.2d 1056 (Board Review 16) Flight, accompanied by equivocal circumstances, does not supply reasonable suspicion to justify police pursuit. In order for flight to justify police pursuit it must be combined with other specific circumstances indicating that the suspect may be engaged in criminal activity.

*People v. Boulware* 130 A.D.2d 370 (App. Div. 1<sup>st</sup> Dep’t. 1987)(Board Review 13) Knowledge of an individual’s criminal past is not tantamount to a present indication of criminal activity. “An officer’s surmise as to a person’s propensity to commit crime, in the absence of objective indicia that a crime has taken or will be taking place, is an insufficient constitutional predicate.” *People v. Brown*, 115 A.D.3d 38 (App. Div. 1<sup>st</sup> Dep’t. 2014)(Board Review 17).

*People v. Haynes*, 115 A.D.3d 6767 (App. Div. 2<sup>nd</sup> Dep't. 2014) (Board Review 18) In *People v. Haynes*, the Court held that the defendant's act of looking away from the police and grabbing at his waistband area in such a way that it seemed as if he was holding onto a bulge or something heavy combined with flight was an insufficient basis for police pursuit.

§ 87(2)(b), § 87(2)(g)

**Allegation C—Abuse of Authority: Lieutenant Michael Raso damaged § 87(2)(b) s property.**

**Allegation D—Abuse of Authority: PO Daniel Nunez entered § 87(2)(b) in the Bronx.**

**Allegation E—Abuse of Authority: PO Juan Rodriguez entered § 87(2)(b) in the Bronx.**

**Allegation F—Abuse of Authority: Sgt. John Anzelino entered § 87(2)(b) in the Bronx.**

**Allegation G—Abuse of Authority: Lieutenant Michael Raso entered § 87(2)(b) in the Bronx.**

§ 87(2)(b) stated that she heard banging on the front door of the building. Her son went to the front door of the building and soon after Lieutenant Raso and Sgt. Anzelino were at her apartment door. She later observed that the door knob to the front door of her building had been broken. After the officers left, she called IAB. LT Turner responded to her location, and she showed him the damage to the front door.

Lieutenant Raso stated that he went to § 87(2)(b) to respond to a call for assistance put over by PO Nunez and PO Rodriguez. When he arrived, PO Nunez, PO Rodriguez, and Sgt. Anzelino were at the front door of the location. Lieutenant Raso heard a woman yelling on the third floor, but he could not make out what she was saying. PO Nunez informed Lieutenant Raso that he saw § 87(2)(b) run inside the house after putting something in his waistband. The door was locked and Lieutenant Raso decided to enter the apartment. He decided this as he was worried that the female was being attacked, given what the officers told him and the yelling. He and other officers pushed their weight against the door to open it. He did not remember if the door was broken. Lieutenant Raso and Sgt. Anzelino went to the third floor apartment (see below).

PO Nunez and PO Rodriguez stated that they entered the building following § 87(2)(b). They entered with PO Rodriguez before any other officers arrived. They did not hear any woman yelling and they did not see any female civilian at the location. They entered the building in order to stop § 87(2)(b) (see above).

Sgt. Anzelino stated that PO Nunez and PO Rodriguez were already in the building before he arrived at the location. He entered the building solely to back up the officers. He did not hear any female yelling and he did not see any female at the location.

PO Maldonado and Det. Beddows arrived with Sgt. Anzelino. They did not enter the building. PO Maldonado heard a female voice from inside the house yelling. Det. Beddows

learned later from Lieutenant Raso that woman had been heard yelling. Neither PO Maldonado nor Det. Beddows saw the officers enter the building.

There was no search or arrest warrant connected with § 87(2)(b) or § 87(2)(b) at the time of the incident (Board Review 17).

Later the same morning, LT Turner was contacted by the dispatcher and was asked to go to § 87(2)(b) for an IAB complaint. When LT Turner arrived he spoke with § 87(2)(b). The door knob to the front door of the building was broken. § 87(2)(b) informed LT Turner that plainclothes officers had entered the building and broke her door.

§ 87(2)(b), § 87(2)(g)

*People v. McBride* 14 N.Y.3d 440 (Board Review 14) Officers may enter a dwelling without a warrant if they have probable cause to believe the suspect committed a crime and exigent circumstances justify the warrantless entry. In determining whether exigent circumstances are present, the following factors are considered: (1) the gravity or violent nature of the offense; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered; (5) a likelihood that the subject will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry. The ultimate inquiry, however, is whether in light of all the facts of a particular case there is an urgent need justifying the warrantless entry.

§ 87(2)(b), § 87(2)(g)

**Allegation I—Discourtesy: Lieutenant Michael Raso spoke discourteously to § 87(2)(b)**

§ 87(2)(b)

**Allegation J—Abuse of Authority: Lieutenant Michael Raso threatened to arrest**

**Allegation M—Abuse of Authority: PO Juan Rodriguez threatened to arrest § 87(2)(b)**

**Allegation N—Abuse of Authority: PO Daniel Nunez threatened to arrest § 87(2)(b)**

**Allegation P—Discourtesy: PO Daniel Nunez spoke discourteously to § 87(2)(b)**

**Allegation Q—Discourtesy: PO Juan Rodriguez spoke discourteously to § 87(2)(b)**

§ 87(2)(b) alleged that when Lieutenant Raso came to her apartment, she asked him if he had a warrant. Lieutenant Raso responded that he did not need a “fucking” warrant. § 87(2)(b) asked if she could use her telephone and Lieutenant Raso told her that she could not use her “fucking” phone and threatened to arrest her, but did not say for what. When she walked downstairs, she observed PO Nunez, PO Rodriguez and an unidentified officer (see below) threatening to arrest § 87(2)(b) and calling him a “piece of shit.”

No other civilians, including § 87(2)(b) cooperated with the investigation (Board Review 06).

None of the officers at the location acknowledged saying or hearing any officers say the word “fuck,” discuss a search warrant, threaten to arrest anyone, or call § 87(2)(b) a “piece of shit.”

§ 87(2)(b), § 87(2)(g)

**Allegation K—Abuse of Authority: Lieutenant Michael Raso searched § 87(2)(b) in the Bronx.**

**Allegation L—Abuse of Authority: Sgt. John Anzelino searched § 87(2)(b), in the Bronx.**

§ 87(2)(b) stated that Lieutenant Raso told her to leave her apartment. Lieutenant Raso and Sgt. Anzelino went inside the apartment. When she returned, couch cushions were flipped and clothes were dragged out of closets.

Sgt. Anzelino denied ever interacting with § 87(2)(b) and he denied ever searching her apartment.

Lieutenant Raso stated that he and Sgt. Anzelino entered § 87(2)(b)'s apartment. He did not ask § 87(2)(b) for consent and she did not provide consent. Lieutenant Raso asked § 87(2)(b) if there was anyone else in the apartment, and she denied that there was anyone else inside. Lieutenant Raso and Sgt. Anzelino went into the apartment and looked in every room to ensure that there was no victim of a crime inside. They did not search any closets or couch cushions or other items. He believed there might be a victim of a crime inside as he heard a female yelling while he was outside the apartment and because he believed § 87(2)(b) might have a weapon (see above). He did not find any other victim in the apartment.

There was no search or arrest warrant connected with § 87(2)(b) or § 87(2)(b) at the time of the incident (Board Review 17).

LT Turner, who was called to the location by IAB to investigate following § 87(2)(b)'s 911 call regarding the officers' conduct, went to § 87(2)(b)'s apartment. He observed couch cushions flipped over and a stereo with damage to the front of it. § 87(2)(b) did not allow him to go to any other room, but she told him that officers had searched her house.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation O—Abuse of Authority: An officer threatened to arrest § 87(2)(b)**

**Allegation R—Discourtesy: An officer spoke discourteously to § 87(2)(b)**

As shown above, the investigation was unable to determine the identity of the subject of these allegations. § 87(2)(g)



§ 87(2)(b), § 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Pod: 12

Investigator: \_\_\_\_\_ Nicholas Carayannis June 9, 2015  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_

	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date